

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2567

BY DELEGATES FAST AND D. KELLEY

[Introduced February 17, 2021; Referred to the
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating
2 to the financial responsibility of inmates in relation to civil awards and previously entered
3 court-ordered obligations, and requiring the division to subtract the moneys from civil
4 judgments and settlements to be paid towards court ordered obligations even if a court of
5 competent jurisdiction does not enter an order.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-11. Financial responsibility program for inmates.

1 (a) The Legislature finds that:

2 (1) There is an urgent need for vigorous enforcement of child support, restitution, and
3 other court-ordered obligations;

4 (2) The duty of inmates to provide for the needs of dependent children, including their
5 necessary food, clothing, shelter, education, and health care should not be avoided because of
6 where the inmate resides;

7 (3) A person owing a duty of child support who chooses to engage in behaviors that result
8 in the person becoming ~~incarcerated~~ confined should not be able to avoid child support
9 obligations; and

10 (4) Each sentenced inmate should be encouraged to meet his or her legitimate court-
11 ordered financial obligations.

12 (b) As part of the initial classification process into a correctional facility, the division shall
13 assist each inmate in developing a financial plan for meeting the inmate's child support
14 obligations, if any exist. At subsequent program reviews, the division shall consider the inmate's
15 efforts to fulfill those obligations as indicative of that individual's acceptance and demonstrated
16 level of responsibility.

17 (c)(1) The superintendent shall deduct from the earnings of each inmate all legitimate
18 court-ordered financial obligations. The superintendent shall also deduct child support payments

19 from the earnings of each inmate who has a court-ordered financial obligation. The commissioner
20 shall develop a policy that outlines the formula for the distribution of the offender's income and
21 the formula shall include a percentage deduction, not to exceed 50 percent in the aggregate, for
22 any court-ordered victim restitution, court fees, and child support obligations owed under a
23 support order, including an administrative fee, consistent with the provisions of §48-14-406(c) of
24 this code, to support the division's administration of this financial service;

25 (2) If the inmate worker's income is subject to garnishment for child support enforcement
26 deductions, it shall be calculated on the net wages after taxes, legal financial obligations, and
27 garnishment;

28 (3) The division shall develop the necessary administrative structure to record inmates'
29 wages and keep records of the amount inmates pay for child support; and

30 (4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement
31 of the Department of Health and Human Resources from taking collection action against an
32 inmate's moneys, assets, or property.

33 (d) If an inmate is awarded a civil judgment, or settles a civil matter, which awards him or
34 her monetary damages, the court in which those damages are awarded or settled shall enter an
35 order which deducts attorney fees and litigation costs owed the inmate's legal counsel and
36 deducts all known outstanding child support, restitution, spousal support, ~~and~~ court costs, and
37 other obligations of which the court is aware, from the award to the inmate, and satisfies those
38 obligations, prior to releasing any funds to the inmate.

39 (e) Notwithstanding the failure of a court to act in accordance with subsection (d) of this
40 section, the division ~~may~~ shall honor any outstanding court-ordered obligations of which it is
41 aware, to satisfy all known orders of child support, restitution, spousal support, ~~or~~ court costs, or
42 other known obligations, and shall deduct from any civil judgment or civil settlement such amounts
43 necessary to pay such obligations of the inmate, if any, arising from orders of child support,
44 restitution, spousal support, ~~or~~ court costs, or other known obligations, prior to depositing funds

45 from such civil judgment or civil settlement in the inmate's account. ~~The provisions of this~~
46 ~~subsection shall apply to civil actions filed after July 1, 2019~~

47 (f) The accumulation of the total funds, not necessary for current distribution, shall be
48 invested, with the approval of the commissioner or as appropriate, through the West Virginia
49 Municipal Bond Commission, in short-term bonds or treasury certificates or equivalent of the
50 United States. Bonds and certificates so purchased shall remain in the custody of the State
51 Treasurer. The earnings from investments so made shall be reported to the principal officer of
52 each institution, from time to time, as earned, and shall be credited to the respective accounts of
53 the institutions by the West Virginia Municipal Bond Commission. When the earnings are
54 transferred to the respective institutions, they shall be credited by the superintendent to the credit
55 of, and for the benefit of, the inmate, or resident, benefit fund.

NOTE: The purpose of this bill is to include civil settlements in moneys that should be paid on court ordered obligations of inmates, and require the division to subtract the moneys from civil judgments and settlements to be paid towards court ordered obligations even if a court of competent jurisdiction does not enter an order.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.